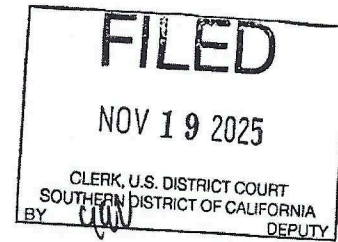


PETITION FOR WRIT OF HABEAS CORPUS

Pursuant to 28 U.S.C. § 2241

'25CV3279 DMS VET

United States District Court
for the Southern District of California



Petitioner: ORLANDO ALFREDO GIMÉNEZ GIL

Alien Number ~~XXXXXXXXXX~~

Detention Facility: Otay Mesa Detention Center – San Diego, California

Respondents:

Warden, Otay Mesa Detention Center

Director, ICE San Diego Field Office

Secretary of the Department of Homeland Security (DHS)

Attorney General of the United States

I. Introduction

Orlando Alfredo Giménez Gil, a Venezuelan national with Alien Registration Number ~~XXXXXXXXXX~~, hereby submits this Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, challenging his prolonged and unjustified detention by U.S. Immigration and Customs Enforcement (ICE) at the Otay Mesa Detention Center in San Diego, California.

Petitioner respectfully requests immediate release or, alternatively, a custody redetermination (bond hearing) before an immigration judge. His current detention violates constitutional guarantees of due process, personal liberty, and protection from arbitrary and excessive detention under the Fifth and Eighth Amendments to the United States Constitution.

II. Statement of Facts

1. Petitioner is a citizen of Venezuela who lawfully entered the United States through the CBP One program, complying fully with all established immigration protocols.

2. Since his entry, Petitioner has voluntarily attended all required immigration appointments, demonstrating good faith and full cooperation with U.S. immigration authorities.
3. On the day of his arrest, Petitioner presented himself voluntarily to an immigration court appointment, where he was unexpectedly detained and placed in ICE custody despite having an active immigration case and no criminal history.
4. On October 20, 2025, the Board of Immigration Appeals (BIA) formally received and accepted his appeal, confirming that Petitioner's case remains active and that no final, executable order of removal exists.
5. As of the date of this petition, Petitioner has been detained for more than four (4) months without meaningful judicial review of his custody and without any valid justification for continued deprivation of his liberty.
6. Petitioner poses no danger to the community, has no criminal record, does not present a flight risk, and maintains strong family and community ties in the United States.
7. Petitioner's prolonged detention under these circumstances is arbitrary, unreasonable, and contrary to controlling federal case law and constitutional protections.

III. Legal Grounds

A. Fifth Amendment Violation – Denial of Due Process

The Fifth Amendment prohibits the deprivation of liberty without due process of law. Petitioner's prolonged detention, despite having a pending BIA appeal and without any individualized assessment of danger or flight risk, violates both substantive and procedural due process.

B. Eighth Amendment Violation – Protection Against Excessive Punishment

Indefinite civil detention without justification or review amounts to excessive punishment, contravening the principles of proportionality and humane treatment embodied in the Eighth Amendment.

C. Violation of 28 U.S.C. § 2241 – Unlawful Federal Detention

Under 28 U.S.C. § 2241, any person held in federal custody may challenge the legality of that detention. The continued, prolonged detention of Petitioner without adequate review constitutes unlawful and arbitrary federal detention.

IV. Relevant Case Law

1. *Zadvydas v. Davis*, 533 U.S. 678 (2001)

The Supreme Court held that post-removal detention cannot exceed a reasonable period (generally six months) without specific justification.

→ Petitioner has no final order of removal, making his prolonged detention even less justified.

2. *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018)

The Court acknowledged that prolonged immigration detention raises serious due process concerns and requires adequate judicial review.

3. *Casas-Castrillón v. DHS*, 535 F.3d 942 (9th Cir. 2008)

The Ninth Circuit held that individuals with pending BIA appeals are entitled to a bond hearing because their detention cannot be indefinite.

4. *Rodriguez v. Robbins*, 715 F.3d 1127 (9th Cir. 2013)

ICE must provide bond hearings for detainees held for prolonged periods, and the government bears the burden of proving danger or flight risk.

5. *Demore v. Kim*, 538 U.S. 510 (2003)

While the Court approved brief detention, it clarified that prolonged or indefinite detention without individualized review violates due process.

V. Constitutional Rights Violated

1. Right to personal liberty and individual security (Fifth and Fourteenth Amendments).
2. Right to substantive and procedural due process.
3. Protection from arbitrary and indefinite detention.
4. Right to judicial review and a fair hearing.
5. Protection against excessive punishment and inhumane conditions (Eighth Amendment).

VI. Relief Requested

For the foregoing reasons, Petitioner respectfully requests that this Honorable Court:

1. Issue a Writ of Habeas Corpus ordering his immediate release under reasonable conditions of supervision while his BIA appeal remains pending; or
2. In the alternative, order a custody redetermination hearing (bond hearing) before an immigration judge within 10 days;
3. Require ICE to demonstrate, with clear and convincing evidence, that Petitioner poses a danger or flight risk — something it has not done to date;
4. Grant any further relief that the Court deems just and appropriate.

VII. Certification

Petitioner declares under penalty of perjury that the information contained in this petition is true and correct to the best of his knowledge.

Executed in San Diego, California, on November 13, 2025.



Orlando Alfredo Giménez Gil (Pro Se)



Otay Mesa Detention Center
7488 Calzada de la Fuente
San Diego, CA 92154

PROOF OF SERVICE

I, ORLANDO ALFREDO GIMÉNEZ GIL

, declare that on 11-14-2025, I mailed the following document:

PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241
on behalf of detainee ORLANDO ALFREDO GIMÉNEZ GIL 

I served copies by U.S. Mail to:

1. Clerk of the Court
U.S. District Court, Southern District of California
333 West Broadway, Suite 420
San Diego, CA 92101
2. U.S. Attorney's Office, Southern District of California
880 Front Street, Room 6293
San Diego, CA 92101
3. Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530
4. ICE Field Office Director – San Diego
880 Front Street, Suite 2242
San Diego, CA 92101

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 11-14-2025.

Signature:



Printed Name: ORLANDO ALFREDO GIMÉNEZ GIL
Address: Otay Mesa Detention Center – San Diego, California